

**BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

IN RE: ONE Apus Container Ship Incident on November 30, 2020

MDL No. 3028

NOTICE OF POTENTIAL TAG-ALONG ACTION

In accordance with Rule 7.2 of the Rules of Procedure for the United States Judicial Panel on Multidistrict Litigation, Plaintiff HDI Global Insurance Company (as subrogee of Crocs, Inc.), by and through undersigned counsel, writes to notify the Clerk of the Panel of the potential tag-along action listed in the Schedule of Actions attached hereto. Also attached is a copy of the Docket Sheet and Complaint in the potential tag-along action, and a Certificate of Service of this Notice.

Respectfully submitted,

DEASEY, MAHONEY & VALENTINI, LTD.

BY: /s/ George R. Zacharkow
George R. Zacharkow (GRZ 7099)
(PA 32816)
1601 Market Street, 34th Floor
Philadelphia, PA 19103
(215) 587-9400 (phone)
(215) 587-9456 (fax)
Email: GZacharkow@dmvlawfirm.com
Attorneys for Plaintiff

Dated: December 28, 2022

**BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

IN RE: ONE Apus Container Ship Incident on November 30, 2020

MDL No. 3028

SCHEDULE OF ACTIONS

1. HDI Global Insurance Company v. Silver Birch GP, LLC, Docket No. 2:22-cv-05096 (GAM)

Plaintiff: HDI Global Insurance Company

Defendant: Silver Birch GP, LLC

Case No.: 2:22-cv-05096 (GAM)

Court: United States District Court for the Eastern District of Pennsylvania

Assigned to: The Honorable Gerald A. McHugh

JS 44 (Rev. 04/21)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

HDI Global Insurance Company

(b) County of Residence of First Listed Plaintiff Cook
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Deasey, Mahoney & Valentini, Ltd.
1601 Market Steet, Suite 3400, Phila., PA 19103**DEFENDANTS**

Silver Birch GP, LLC

County of Residence of First Listed Defendant Philadelphia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input checked="" type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(s)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
46 USC S 30701Brief description of cause:
Breach of contract of carriage**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE Engelmayer (SDNY)DOCKET NUMBER 22-md-3028 (PAE)

DATE

12/21/22

SIGNATURE OF ATTORNEY OF RECORD

George R. Zecher

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

HDI Global Insurance Company

CIVIL ACTION

v.

Silver Birch GP, LLC

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) (X)
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

12/21/22**Date**George R. Zacharkow**Attorney-at-law**Plaintiff**Attorney for** HDI Global Ins. Co.215-587-9400**Telephone**215-587-9456**FAX Number**GZacharkow@dmvlawfirm.com**E-Mail Address**

(Civ. 660) 10/02

DEASEY, MAHONEY & VALENTINI, LTD.

BY: George R. Zacharkow

Identification No. 32816

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Philadelphia, PA 19103

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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HDI GLOBAL INSURANCE COMPANY

CIVIL ACTION

161 North Clark Street, 48th Floor

Chicago, Illinois 60601

Plaintiff

v.

SILVER BIRCH GP, LLC

NO.

510 Walnut Street

Philadelphia, Pennsylvania 19106

Defendant

RULE 7.1 DISCLOSURE STATEMENT

(Civil Action)

Pursuant to Rule 7.1 of the Federal Rules of Civil Procedure, Plaintiff, HDI Global

Insurance Company makes the following disclosure:

1. Is the party a non-governmental corporate party.

 X YES NO

2. If the answer to Number 1 is "yes," list below any parent corporation or state that there is no such corporation.

HDI Global Insurance Company is an Illinois domestic commercial property and casualty insurer wholly owned by HDI Global Network AG. HDI Global Network AG is owned by HDI Global SE. HDI Global SE is owned by Talanx AG. Talanx AG, a publicly traded company, is the ultimate parent of HDI Global Insurance Company.

3. If the answer to Number 1 is “yes,” list below any publicly held corporation that owns 10% or more of the party’s stock or state that there is no such corporation:

As identified in 2. above, Talanx AG, a publicly traded company, is the ultimate parent of HDI Global Insurance Company.

The undersigned party understands that under Rule 7.1 of the Federal Rules of Civil Procedure, it must promptly file a supplemental statement upon any change in the information that this statement requests.

DEASEY, MAHONEY & VALENTINI, LTD.

BY: /s/ George R. Zacharow
George R. Zacharkow (GRZ 7099)
Attorneys for Plaintiff

Dated: December 21, 2022

DEASEY, MAHONEY & VALENTINI, LTD.

BY: George R. Zacharkow

Identification No. 32816

1601 Market Street, 34th Floor

Philadelphia, PA 19103

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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HDI GLOBAL INSURANCE COMPANY

CIVIL ACTION

161 North Clark Street, 48th Floor

Chicago, Illinois 60601

Plaintiff

v.

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DEASEY, MAHONEY & VALENTINI, LTD.

BY: /s/ George R. Zacharow
George R. Zacharkow (GRZ 7099)
Attorneys for Plaintiff

Dated: December 21, 2022

DEASEY, MAHONEY & VALENTINI, LTD.

BY: George R. Zacharkow

Identification No. 32816

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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HDI GLOBAL INSURANCE COMPANY

CIVIL ACTION

161 North Clark Street, 48th Floor

Chicago, Illinois 60601

Plaintiff

v.

SILVER BIRCH GP, LLC

NO.

510 Walnut Street

Philadelphia, Pennsylvania 19106

Defendant

COMPLAINT IN ADMIRALTY

Plaintiff, HDI Global Insurance Company, by and through its attorneys, Deasey, Mahoney & Valentini, Ltd., hereby brings this civil action against Defendant, Silver Birch GP, LLC, and in support thereof represents upon information and belief, as follows:

JURISDICTION AND VENUE

1. This is an admiralty and maritime claim for breach of a maritime contract and this Court has jurisdiction pursuant to 28 U.S.C. §1333. Plaintiff designates the claim

as an admiralty and maritime claim within the scope and meaning of Rule 9(h) of the Federal Rules of Civil Procedure.

2. The claim involves a contract for the carriage of goods by sea in foreign trade from a port in China to a port in the United States of America and as such, it is governed by the U.S. Carriage of Goods by Sea Act, (“COGSA”), 46 U.S.C. § 30701, *et seq.* (note) and the Harter Act, 46 U.S.C. § 30702, *et seq.*, and this Court also has jurisdiction pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1337.

3. The Bills of Lading issued by Defendant contain a forum selection clause providing that claims against Defendant regarding shipments of goods to the United States are required to be brought in the United States District Court for the Eastern District of Pennsylvania. (See Exhibit 1, ¶ 17.)

THE PARTIES

4. Plaintiff, HDI Global Insurance Company (hereinafter “Plaintiff” or “HDI”) was and still is a corporation organized and existing under the laws of the State of Illinois, with an address and principal place of business at 161 North Clark Street, 48th Floor, Chicago Illinois. HDI is engaged in the insurance business and in pertinent part, provides insurance for shipments carried in ocean transportation.

5. Crocs, Inc. (hereinafter “Crocs”), was and still is a corporation organized and existing under the laws of the State of Colorado with an address and principal place of business at 13601 Via Varra, Bloomfield, Colorado, and was and still is engaged in the business of purchasing, importing and distributing footwear in the United States.

6. Crocs was the purchaser and consignee of the shipments at issue and Plaintiff insured the shipments.

7. Crocs presented a claim to Plaintiff for the nondelivered shipments (as more fully described below) and appointed Plaintiff to serve as its recovery agent.

8. After investigating and adjusting the claim, Plaintiff paid Crocs the sound market value of the nondelivered shipments and became a subrogee of Crocs.

9. Also, following payment of the insurance claim Crocs assigned the recovery rights for the claim to Plaintiff.

10. Defendant, Silver Birch GP, LLC (hereinafter “Silver Birch”), was and still is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with an office and place of business located at 510 Walnut Street, Philadelphia, Pennsylvania, and was a non-vessel owning common carrier (NVOCC) who issued Bills of Lading for the shipments at issue. (See Exhibit 1.)

11. Plaintiff brings this action on its own behalf and as agent and/or trustee on behalf of and for the interest of all parties who may be or become interested in the shipments and consignments at issue, as their respective interests may ultimately appear, and Plaintiff is entitled to maintain this action.

12. Crocs, and any and all other parties in interest, have duly performed all valid conditions precedent to the contracts of carriage on their part to be performed and all conditions precedent to recovery under the identified Bills of Lading have occurred or have been performed by Crocs and/or its predecessors or successors in title, or have been waived or otherwise excused.

13. Timely and consecutive extensions of suit time were obtained from Silver Birch and this action is being filed within the agreed extension period, which runs to September 30, 2023. Silver Birch also obtained back to back extensions of suit time from

the ocean carrier with respect to its claim against them.

RELEVANT FACTS

14. Sometime prior to November 19, 2020, shipments of footwear stuffed into four containers (hereinafter the “Shipments”) were booked with Silver Birch for ocean carriage from the Port of Yantian, China to the Port of Long Beach, California.

15. Silver Birch elected to transport the Shipments aboard the containership M/V ONE APUS (hereinafter the “Vessel”).

16. On or about November 19, 2020, the Shipments, consisting of 3,261 cartons of footwear, then being in good order and condition, were loaded aboard the Vessel.

17. On or about November 19, 2020, Silver Birch issued the following two Bills of Lading, acknowledging receipt of the Shipments on board the Vessel for the agreed carriage to the Port of Long Beach, California:

- a. Bill of Lading No. CSZE0105163
 - i. Container No. KKFU8059750 -- 873 cartons
 - ii. Container No. NYKU4811031 -- 727 cartons
 - iii. Container No. ONEU0347022 -- 726 cartons
- b. Bill of Lading No. CSZE0105171
 - i. Container No. GESU6328795 -- 935 cartons

(See Exhibit 1.)

18. Correspondingly, Silver Birch received the following two Master Bills of Lading from the ocean carrier acknowledging receipt of the Shipments on board the Vessel for the agreed carriage to the Port of Long Beach, California: Bill of Lading No.

ONEYSZPAJ8879901 and Bill of Lading No. ONEYSZPAJ8879900.

19. The M/V ONE APUS departed the Port of Yantian, China on or about November 19, 2020, with the Shipments on board, destined for the Port of Long Beach.

20. During the voyage the stow of containers on deck shifted and collapsed with many of them going overboard.

21. Thereafter, the Vessel diverted to Kobe, Japan and never continued the voyage to Long Beach.

22. The Shipments were lost overboard and were not delivered to the consignee at the Port of Long Beach.

23. The sound market value of the Shipments was One Million One Hundred Forty-Four Thousand Fifty-Three Dollars (\$1,144,053.00), exclusive of prejudgment interest, and costs. Plaintiff reserves the right to revise this amount.

COUNT I
(Breach of Contract)

24. Plaintiff incorporates by reference the averments contained in paragraphs 1 – 23, inclusive, with the same force and effect as if fully set forth herein.

25. Defendant Silver Birch contracted to transport and deliver the Shipments from the Port of Yantian to the Port of Long Beach in the same quantity, good order and condition as when received by it and/or its agents and/or representatives and/or designees at the load port, as evidenced by the Bills of Lading attached hereto as Exhibit 1.

26. Defendant Silver Birch directly, and/or by and through the agents and/or representatives and/or designees it selected to carry out its responsibilities and for whom it is responsible, breached its contractual and statutory duties to exercise due diligence

to ensure that the Vessel was seaworthy and cargo-worthy and fit to safely transport the Shipments through the known and reasonably expected conditions to be encountered during the voyage, to outfit the Vessel with competent officers and crew to navigate her and ensure that the Shipments and other cargo were properly loaded, stowed, and secured aboard the Vessel; and to deliver the Shipments at the agreed destination in the same quantity, good order and condition as when received.

27. The loss of the Shipments was not caused by any act or omission on the part of Plaintiff's subrogor or those for whom it may be responsible, or by its predecessors or successors in title, but instead was caused by the inadequacy and unseaworthiness of the Vessel and the violation of Defendant's duties and obligations as a common carrier by water for hire under the applicable statutes, and/or private carrier by water for hire, and the breach of Defendant's contracts of carriage and any other applicable contracts, including specifically the Bills of Lading attached hereto as Exhibit 1.

28. By reason of Defendant's breach of its contracts of carriage and other agreements with Plaintiff's subrogor and/or other parties in interest, and/or the inadequacy and unseaworthiness of the M/V ONE APUS, and/or the failure of Defendant, and/or the agents and/or representatives and/or designees for whom it is responsible, to comply with applicable laws and regulations, contractual obligations, and/or customs and trade practice, and/or to properly care for the Shipments, Plaintiff as subrogee and assignee of Crocs, has sustained damages in the amount of One Million One Hundred Forty-Four Thousand Fifty-Three Dollars (\$1,144,053.00), exclusive of prejudgment interest and costs.

WHEREFORE, Plaintiff, HDI Global Insurance Company, respectfully requests that this Honorable Court enter judgment in its favor and against Defendant Silver Birch GP, LLC, for the damages as aforesaid, plus prejudgment interest and costs, and that the Court grant such other and further relief to Plaintiff as in law and justice it may be entitled to receive.

COUNT II
(Bailment)

29. Plaintiff incorporates by reference the averments contained in paragraphs 1 – 23, inclusive, with the same force and effect as if fully set forth herein.

30. At all times material hereto Defendant Silver Birch was a bailee for hire.

31. Sometime prior to November 19, 2020, Defendant Silver Birch agreed to accept the Shipments at the Port of Yantian, China and deliver them to Crocs at the Port of Long Beach, California.

32. On or about November 19, 2020, Defendant Silver Birch through its selected and appointed agents and/or representatives and/or designees and/or others for whom it is vicariously liable, received the Shipments at the Port of Yantian, China and thereafter exercised control over the Shipments.

33. Defendant Silver Birch thereafter delivered the Shipments to the Vessel, its owner and/or operator, and/or others acting on their behalf, to conduct the ocean carriage and deliver the shipments at the Port of Long Beach, California.

34. Defendant Silver Birch confirmed its receipt of the Shipments by issuing the Bills of Lading attached hereto as Exhibit 1 and the ocean carrier confirmed its receipt of the Shipments by issuing Master Bill of Lading Nos. ONEYSZPAJ8879901

and ONEYSZPAJ8879900.

35. The Shipment was to be delivered to Plaintiff's subrogor at the Port of Long Beach.

36. Defendant Silver Birch never delivered the Shipment to Plaintiff's subrogor at the Port of Long Beach as agreed and never delivered the Shipment at any other location.

37. Defendant Silver Birch breached its duty as a bailee by failing to redeliver the Shipment when and where agreed and requested.

38. As a direct and proximate result of Defendant Silver Birch's breach of its duty as a bailee, Plaintiff as subrogee and assignee of Crocs has sustained damages in the amount of One Million One Hundred Forty-Four Thousand Fifty-Three Dollars (\$1,144,053.00), exclusive of prejudgment interest and costs.

WHEREFORE, Plaintiff, HDI Global Insurance Company, respectfully requests that this Honorable Court enter judgment in its favor and against Defendant Silver Birch GP, LLC, for the damages as aforesaid, plus prejudgment interest and costs, and that the Court grant such other and further relief to Plaintiff as in law and justice it may be entitled to receive.

DEASEY, MAHONEY & VALENTINI, LTD.

BY: /s/ George R. Zacharow
George R. Zacharkow (GRZ 7099)
Attorneys for Plaintiff

Dated: December 21, 2022

EXHIBIT 1

Silver Birch GP, LLC

SHIPPER (Principal or Seller-licensor and address) EVERVAN SHUANGFENG FOOTWEAR CO LTD. ON BEHALF OF EVA WORLDWIDE TRADING CO LTD. TECHNOLOGY INDUSTRY ZONE, ECONOMIC& DEVELOPMENT DISTRICT SHUANGFENG COUNTY HUNAN, CHINA		B/L Number CSZSE0105163		DATE OF ISSUE 19 NOV 2020	
CONSIGNEE (Non-Negotiable unless consigned to order) CROCS, INC. 13601 VIA VARRA BROOMFIELD CO 80020 UNITED STATES PH: 303 848-7629 (IRS# 20-2164234-00)		EXPORT REFERENCES/FORWARDING AGENT (Reference) Shipper Ref : Consignee Ref : PO Ref : Job Ref # : CSZSE0105163			
NOTIFY PARTY/INTERMEDIATE CONSIGNEE (Name and address) VANDERGRIFF INC 180 E. OCEAN BLVD STE 270 LONG BEACH, CA, 90802 562.624.3000 EXT. 7808 CROCS@VANDEGRIFTINC.COM, LGBDOCS@VANDEGRIFTINC.COM		POINT AND COUNTRY OF ORIGIN CHINA			
FEEDER VESSEL		PLACE OF RECEIPT YANTIAN		DELIVERY AGENT AT DESTINATION BDP INTERNATIONAL INC 100 CONCORD ROAD ASTON, PA 19014 ASTON.SILVERBIRCH@BDPINT.COM	
EXPORT CARRIER (Vessel, voyage, & flag) ONE APUS V.006E		PORT OF LOADING YANTIAN			
PORT OF DISCHARGE LONG BEACH, CA		PLACE OF DELIVERY LONG BEACH, CA			
MARKS AND NUMBERS	NO of PKGS	DESCRIPTION OF PACKAGES & GOODS PARTICULARS FURNISHED BY SHIPPERS		GROSS WEIGHT	MEASUREMENT
KKFU8059750 /CNBD84357	/40'HC	/CY/CY /873 CTNS /		4,732.614 KGS /	66.007 CBM
NYKU4811031 /CNBC71985	/40'HC	/CY/CY /727 CTNS /		3,319.620 KGS /	65.952 CBM
ONEU0347022 /CNBC76836	/40'HC	/CY/CY /726 CTNS /		3,844.774 KGS /	62.111 CBM
SHIPPER'S LOAD & COUNT & SEAL S.T.C. : -					
MARKS & NOS. & DESCRIPTION OF GOODS AS PER LIST ATTACHED.					
2,326		CTNS		11,897.008 KGS	194.070 CBM
THIS SHIPMENT DOES NOT CONTAIN WOOD PACKAGING MATERIAL.					
EXPRESS BILL OF LADING					
FREIGHT COLLECT					
SHIPPED ON BOARD :19 NOV 2020					
Total : THREE (3X40'HC) CONTAINER(S) ONLY					
** Page 1 of 2 **					
FREIGHT RATES, CHARGES, WEIGHTS AND/OR MEASUREMENT SUBJECT TO CORRECTIONS					
<p>Notwithstanding to whom bills of lading are issued, the Carrier shall be responsible for the cargo in an amount exceeding US \$5000 per Package in customary freight unless the Carrier is notified in writing by the Shipper within 15 days of the date of delivery of the cargo that the cargo is damaged or lost. The Carrier shall be responsible for the cargo in an amount exceeding US \$5000 per Package in customary freight unless the Carrier is notified in writing by the Shipper within 15 days of the date of delivery of the cargo that the cargo is damaged or lost.</p> <p>For And On behalf of BDP INTERNATIONAL LTD (CHINA), SHENZHEN BRANCH</p> <p>AS AGENT FOR THE CARRIER Silver Birch GP, LLC</p>					

Limitation on Carrier's Liability/Shipper's and Valorem Option. The Carrier shall be liable for any loss or damage to or in connection with the transportation of the Goods in an amount exceeding US \$5000 per Package in customary freight unless the Carrier is notified in writing by the Shipper within 15 days of the date of delivery of the cargo that the cargo is damaged or lost. The Carrier shall be responsible for the cargo in an amount exceeding US \$5000 per Package in customary freight unless the Carrier is notified in writing by the Shipper within 15 days of the date of delivery of the cargo that the cargo is damaged or lost.

Bill of Lading attachment Page 2 of 2.

(CSZSE0106163)

SHIPPER'S LOAD & COUNT & SEAL S.T.C. :-

KKFU8059750

FROM: TO:
CPO:
DESC:
SKU:
QUANTITY:
CARTON:

873 4,732.614 KGS 66.007 CBM
CTNS FOOTWEAR(WOMEN'S SHOES)
PO NUMBER:4500971191,
4500983095,4500983096,
4501001913,4501001919,
4501022833.
HS CODE:640299

NYKU4811031

FROM: TO:
CPO:
DESC:
SKU:
QUANTITY:
CARTON:

727 3,319.620 KGS 65.952 CBM
CTNS FOOTWEAR(WOMEN'S SHOES)
PO NUMBER:4500971193.
HS CODE:640299

ONEU0347022

FROM: TO:
CPO:
DESC:
SKU:
QUANTITY:
CARTON:

726 3,844.774 KGS 62.111 CBM
CTNS FOOTWEAR(WOMEN'S SHOES)
PO NUMBER:4500971190,
4500971193,4500986085,
4500986086,4501001912,
4501001914,4501001915,
4501001916,4501001917,
4501001918,4501004029.
HS CODE:640299

NOTIFY PARTY 2
DAMCO DISTRIBUTION SERVICE
12801 EXCELSIOR DR.
SANTA FE SPRINGS, CA 90670
USA
PHONE (1) 213-514-0091

=====	=====	=====
2,326	CTNS	11,897.008KGS 194.070 CBM
=====	=====	=====

END OF LISTING..

SHIPPER (Principal or Seller-licensee and address)		B/L Number		DATE OF ISSUE	
DAMCO O/B FREETREND TECHNOLOGY (SHEN ZHEN) CO., LTD NO.322, YUAN HU ROAD, ZHANG-BEI INDUSTRIAL DISTRICT, XIN-LIAN COMMUNITY, LONG-GANG ZONE, SHENZHEN CITY, GUANGDONG PROVINCE, CHINA		CSZSE0105171		19 NOV 2020	
CONSIGNEE (Non-Negotiable unless consigned to order) CROCS, INC. 13601 VIA VARRA BROOMFIELD CO 80020 UNITED STATES PH: 303 848-7629 (IRS# 20-2164234-00)		EXPORT REFERENCES/FORWARDING AGENT (Reference)			
		Shipper Ref : Consignee Ref : PO Ref : Job Ref # : CSZSE0105171			
NOTIFY PARTY/INTERMEDIATE CONSIGNEE (Name and address) VANDERGRIFT INC 180 E. OCEAN BLVD STE 270 LONG BEACH, CA, 90802 562.624.3000 EXT. 7808 CROCS@VANDEGRIFTINC.COM, LGBDOCS@VANDEGRIFTINC.COM		POINT AND COUNTRY OF ORIGIN CHINA			
		DELIVERY AGENT AT DESTINATION BDP INTERNATIONAL INC 100 CONCORD ROAD ASTON, PA 19014 ASTON.SILVERBIRCH@BDPINT.COM			
FEEDER VESSEL		PLACE OF RECEIPT YANTIAN			
EXPORT CARRIER (Vessel, voyage, & flag) ONE APUS V.006E		PORT OF LOADING YANTIAN			
PORT OF DISCHARGE LONG BEACH, CA		PLACE OF DELIVERY LONG BEACH, CA			
MARKS AND NUMBERS		NO of PKGS		MEASUREMENT	
		DESCRIPTION OF PACKAGES & GOODS PARTICULARS FURNISHED BY SHIPPERS		GROSS WEIGHT	
GESU6328795 /CNAU13153		/40'HC /CY/CY /935 CTNS /		5,165.710 KGS / 65.284 CBM	
		SHIPPER'S LOAD & COUNT & SEAL S.T.C. : -			
		MARKS & NOS. & DESCRIPTION OF			
		GOODS AS PER LIST ATTACHED.			
		935 CTNS		5,165.710 KGS 65.284 CBM	
THIS SHIPMENT DOES NOT CONTAIN WOOD PACKAGING MATERIAL.					
EXPRESS BILL OF LADING					
FREIGHT COLLECT SHIPPED ON BOARD :19 NOV 2020					
Total : ONE (1X40'HC) CONTAINER(S) ONLY					
** Page 1 of 2 **					
FREIGHT RATES, CHARGES, WEIGHTS AND/OR MEASUREMENT SUBJECT TO CORRECTIONS		<p>Required by the Carrier the Grade, Packages or Containers shall be as specified above and in apparent good order and condition unless otherwise stated, to be transported in such places as permitted herein and subject to all terms and conditions appearing on back and unless this bill of lading is subject to the Shipper's agreement by accepting this Bill of Lading. The description and grade of the Goods, Packages or Containers and the weight, measure, quantity, condition, contents and value thereof as stated above are accepted by the Shipper, and Carrier shall have no responsibility or liability regarding such information. See paragraph 11 on the reverse side of this Bill of Lading as to packages, Packages and Paragraph 8 as to Containers, Goods.</p> <p>IN WITNESS WHEREOF, I sign this Bill of Lading having been signed and otherwise state before, one of which being accepted by the other, if any, to be void. It required by the Carrier, one (1) original Bill of Lading must be surrendered duly endorsed in exchange for the Goods or delivery order.</p> <p>For And On behalf of BDP INTERNATIONAL LTD (CHINA), SHENZHEN BRANCH</p> <p>AS AGENT FOR THE CARRIER Silver Birch OP, LLC</p>			

[illegible]

Bill of Lading attachment Page 2 of 2.

(CSZSE0105171)

SHIPPER'S LOAD & COUNT & SEAL S.T.C. :-

CESU6328795

FROM:
TO:
CPO:
DESC:
SKU:
QUANTITY:
CARTON:

935
CTNS

FOOTWEAR
CHARMS
HTS CODE: 6402993165,
6402993177, 6402998061,
6402999065, 6404193960,
7117907500.

5,165.710 KGS 65.284 CBM

PO LIST SEE ATTACHMENT

NOTIFY PARTY2
DAMCO DISTRIBUTION SERVICE
12801 EXCELSIOR DR.
SANTA FE SPRINGS, CA 90670
USA
PHONE (1) 213-514-0091

935

CTNS

5,165.710 KGS 65.284 CBM

END OF LISTING...

1. **"BENEFICIARIES"** means the whole or the partial owners and service providers underwritten or provided by or on behalf of Carrier in respects of the Goods.

2. **"Bills of Lading"** means the bills of lading and documents underwritten or provided by or on behalf of Carrier in respects of the Goods.

3. **"Carrier"** means Silver Brier GH LLC, 6100 Walnut Street, Philadelphia, PA 19101, USA, and on whose behalf the Bill of Lading has been signed.

4. **"COGSA"** means the Carriage of Goods by Sea Act of the United States of America, as amended, adopted on 16th April 1924.

5. **"COMWAVE"** means the Carriage of Goods by Water Act of Canada, as amended, adopted on 1st May 1924.

6. **"Contract"** means the contract of carriage, including the Bill of Lading, the Charterparty, or any similar article or document used to transport goods.

7. **"Goods"** means the cargo accepted from the Merchant and includes any Container not supplied by or on behalf of the Carrier.

8. **"Hague Rules"** means the rules contained in the International Convention for the Unification of Certain Rules Relating to the Bills of Lading, August 1924.

9. **"Hague-Visby Rules"** means the Hague Rules as amended by the protocol signed at Brussels on 23rd February 1968.

10. **"Incoterms"** includes the acronym, definition, conditions, obligations, liability, or other provisions of any Bill of Lading and any Person having a present or future interest in the Goods or any Person acting on behalf of any of the above mentioned Persons.

11. **"Package"** is the largest individual unit of partially or completely covered or contained goods made up of or for the Merchant of which delivered and received in Carrier's bill of lading, including printed units and each Government package and container, or the derivative or the result thereof, and includes any unit of measure, weight, or number.

12. **"Person"** includes an individual, a partnership, a body corporate or other entity.

13. **"Ship"** means the vessel named in this Bill of Lading, or any vessel or conveyance engaged, contracted for, chartered, or operated by Carrier or used by Carrier for the performance of this contract.

14. **"Vessel"** means a ship, barge, tugboat, or other floating structure.

* "Port to Port Shipment" means a Carriage pursuant to this Bill of Lading where only Ports are designated as the Place of Receipt and Place of Loading and the Place of Delivery and the Port of Discharge.

2. **GARNER'S TARIFFS:** Goods carried under this Bill of Lading are subject to all terms and conditions of tariffs on file with the Federal Maritime Commission, or any other regulatory agency which governs a particular portion of the Cargoes, and the terms are incorporated herein as part of the terms and conditions of this Bill of Lading. Copies of Carrier's tariffs may be obtained from Carrier or its agents upon request, in the case of inconsistency between this Bill of Lading and the applicable TARIFF, this Bill of Lading shall prevail.

[illegible]

A. Affirmations
 A-Marchant warrants that in agreeing to the terms stated by him or her, it is the spirit of and his intention, at the Person signing or stating to the poster(s) of the Goods or any Persons who have present or future interest in the Goods.
 B. The description and particulars of the Goods and Packages set out on the label hereon are furnished by Merchant, and Merchant warrants to Carrier that the description and particulars furnished, has not misled us, weight, content, measure, quantity, quality, condition, nature, number and value are correct and Merchant agrees that Carrier shall have no responsibility or liability with respect to such description and particulars and shall not be liable to Carrier for any loss or damage to the Goods.
 C. Merchant shall comply with all laws, regulations and requirements of customs, port and other authorities and shall have no responsibility for any charges, duties, taxes, imposts, expenses and losses incurred or suffered by reason thereof or by reason of any delay, inaccuracy or insufficiency in the description, numbering or addressing of the Goods.
 D. The Goods shall be delivered to the carrier in accordance with the instructions on the label hereon.

c. Merchant undertakes that this Cargo are packed in a manner adequate to withstand the ordinary risks of Carriage loading against the sea, stowage and in compliance with laws, regulations and requirements which may be applicable. All cargo must be properly and sufficiently packaged to withstand storage time to normal handling in transit, including the riggers of an ocean voyage. Unpackaged or insufficiently packaged or protected cargo may be accepted by the Carrier for transportation at Merchant's sole risk of damage.

d. Merchant shall be liable for the loss, damage, contamination, seizure, detention, delay, expense, demurrage, unloading and other the Carriage company incurring, lost net value of the contents of Cargoes if any reason of vessel failure than Merchant can be shown or any Port of Call.

acting on his behalf or for which Meridian is otherwise responsible.

ii. A licensee shall defend, indemnify and hold harmless Center against any loss, damage, claim, liability or expense whatsoever arising from any breach of the provisions of this paragraph or from any cause in connection with the Grants for which Center is not responsible, including without limitation in connection with patent infringement, seizures, executions, claims or other legal proceedings or any disposition against the Goods or any proceedings by way of interpretation or otherwise.

A. CLAUSE PARAMOUNT: Notwithstanding paragraph 13 below, the following if any of the Parties in respect to the Goods whether the Party is a Member-Flag Government or a Nonmember-Flagship shall be as follows: 1. If any portion of the Carriage is to or from the United States America, Carriage of Goods by Sea Act of the United States (COGSA) shall apply and such parties between loading and unloading and discharge are during the voyage time the Goods are in the custody of Carrier. All Carriers within this Bill of Lading to or from Canada that has subject Carriage of Goods by Water Act of Canada (CGWA) 2. In any Vessel that does not route have any Carriage to or from the United States America or Canada, the English Rules governing liability will still apply except where the Hague-Vienna Rules are compulsively applicable in the port of loading, in which case the Hague-Vienna Rules shall apply. The appropriate law shall govern liability the Goods are loaded on the vessel, in the event of loss, damage, delay, detention, or non-delivery of the goods from the carrier.

[illegible][illegible][illegible]

A. Carrier shall be entitled to subcontract directly or indirectly on any terms the whole or any part of the handling, storage or carriage of Goods and all duties undertaken by Carrier in relation to the Goods. Every servant or agent or subcontractor of Carrier shall be entitled to the same rights, exemption from liability, defences and liabilities in which Carrier is entitled and shall be deemed to be parties to contracts entered into by Carrier in relation to the Goods.

[illegible]

D. Carter shall use reasonable endeavors to complete shipment and to deliver the Goods at the place designated for delivery. If it may be the performance of this contract is the opinion of the Carrier is or will be obstructed by any Force Majeure, act, delay, illiteracy or interruption beyond including strikes, lockout or other labor unrest, governmental actions, war, riots, or social disturbances, ice, or quarantine, Carrier may refuse to complete the performance of the contract. Under such circumstances Carrier, whether or not the shipment is commenced, shall not be liable for the loss of the goods. Carrier shall not be bound to deliver the merchandise of this contract as hereinafter set out to the consignee at Merchants' expense.

at any place Carrier shall deem safe and convenient, or to deliver the Goods at the place of delivery. In any event, Carrier shall be entitled to bill freight for any Goods received for transportation and additional compensation for extra costs resulting from the circumstances referred to in this paragraph.

A. Where Goods are not delivered to Carrier in Containers, the Carrier may pack them in any type Container with other goods. The terms of this Bill of Lading shall govern the responsibility of Carrier in connection with or arising out of the supply of a Container to Merchant or the use of a Container by Merchant, whether supplied before or after the Goods are received by Carrier or delivered to Merchant. The Merchant indemnifies Carrier for any damage or injury to Persons or property caused by Carrier's Containers or other equipment during handling by or when in possession of or under the control of the Merchant, its agents or sub-contractors employed by or on behalf of the Merchant. Merchant shall be liable to indemnify Carrier and also to reimburse Carrier within the time provided for in Carrier's applicable tariff, for losses Merchant may pay carrier for

the carriage or deliver charges incurred by the Containers or other equipment.

8. When Carrier incurs the freight already paid into Customs, the Bill of Lading is given back evidence of the stated number of Containers as well as the place of destination, and the Carrier accepts no responsibility and shall have no liability with respect to the order and fulfillment of the contents of the Containers. Merchant warrants that the cargo storage and the seal of the Containers are safe and proper and suitable for loading and unloading. Delivery shall be deemed as full and complete when the Containers are delivered by the Carrier with their seals intact. Carrier has the right, but is under no obligation, to open and inspect the Containers or Packages at any time without notice to the Merchant, and expenses resulting from such inspection shall be borne by the Merchant. The Merchant shall inspect the cargo of the Containers and be solely responsible for the address of their delivery and suitable for use.

[illegible]

D. Where Carrier is instructed to provide a Container in the absence of a written request to the contrary, Carrier is not under obligation to provide a Container of any particular form or quality.

[illegible]

1. PERMISSIBLE CARGO: Goods on a postpaid return shall be confined to ordinary Consumer without special protective services or other measures unless there is noted on the bill of lading that the Goods will be carried in a refrigerated, braced, specially stabilized, or otherwise specially equipped Container or in use to receive special attention in any way. The Merchant warrants that the transportation of any Goods which require refrigeration during their shipment shall be made in a refrigerated Container. The Merchant warrants that any Goods which require special stabilization or other special measures for the safe and complete transportation shall be transported in a specially equipped Container. The Goods name must properly appear in the Container and that the characteristic conditions have been adequately set before receipt of the Goods by the Carrier. The Merchant's obligation is limited to the fact that refrigerated Containers are not designed to prevent their cargo from being lost and from perishing by packing at or below its designated carrying temperature. The Carrier shall not be responsible for the consequences of cargo presented in a higher temperature than that designated for transportation. If the above requirements are not complied with, the Carrier shall not be liable for damage to the Goods or to the Goods' ownership. Carrier shall not be liable for damage to the Goods from rain, leaks, break down, shrinkage or the temperature conditions mentioned, theft, pilferage or loss of any kind. The Carrier shall not be responsible for the loss of or damage to the Goods.

18. **DECK CARGO AND CONTAINERIZATION:** Merchant and Carrier agree that Carrier has the right to carry the Goods in any Container tendered or on deck without notice to the Merchant, and such stowage shall not be considered a deviation. Carrier is not required to note "on deck stowage" on the face of Bills of Lading. When it is common practice in a particular trade, or if the cargo is stowed in Containers, Merchant and Carrier agree that the Goods so loaded be placed in the Customs on deck. Any Goods so carried shall constitute entire deck stowage.

[illegible]

12. DELIVERER: **Garner shall have the right to deliver to the Goods** any and all information that he or she has received therefrom, at any time and at any point or place (whether or not named on the label) and may, at any time and at any point or place, all or part of the work and expertise of the Merchant. Any mention on the face of the Bill of Lading issued and/or any other document issued by the Merchant, that the Goods are to be delivered to the consignee at a certain place, shall not be construed as the intent of the Goods to solely rely information of the Carrier, and failure to give such notification shall not increase the Carrier's liability nor relieve the Merchant of any obligations hereunder. The Carrier's responsibility shall cease upon delivery or other disposition of the Goods in accordance with applicable governmental authority. If, after discharge and notice, the Goods are damaged, lost or destroyed, the Carrier shall not be liable. The Carrier's liability shall remain limited to the value of the Goods at the time of loss. The Carrier's liability shall not be limited by the value of the Goods at the time of loss.

[illegible][illegible][illegible][illegible][illegible]

17. **LAW AND JURISDICTION:** This Bill of Lading shall be construed according to the laws of the United States and the State of Pennsylvania and the parties agree that any suits against the carrier shall be brought in the United States District Court for the Eastern District of Pennsylvania. Carrier reserves the right to bring suit against the Merchant at Merchant's domicile. Each party shall bear their own legal fees and related charges, and reserves its interest relating to any lawsuit and litigation.

10. PARTIAL INVALIDITY: If any provision in this Bill of Lading is held to be invalid or unenforceable by any court, regulatory or other authority, the invalidity or unenforceability of such provision shall not affect the validity or enforceability of the remaining provisions of this Bill of Lading.

10. **OFFICIAL AVERAGE:** General Average may be adjusted at any port or place at the Carrier's option and settled according to the York Antwerp Rules 1974 and may cover all Goods whether carried on or under deck. The Merchant shall indemnify the Carrier in respect of all claims of a General Average nature which may be made on the Carrier and shall provide such security as may be required by the Carrier in this connection. Such security, including a cash deposit at the Carrier's option, may be required to cover the estimated contribution of the Goods to the General Average.

20. OOH-TO-FLAME COLLISION CLAUSE: If the vessel on which the elements are carried (the carrying vessel) comes into collision with any other vessel or object (the non-carrying vessel or object) as a result of the negligence of the non-carrying vessel or object in the collision, the carrying vessel shall not be liable for the cargo loss or damage.

only those vessels or persons responsible for the non-carrying vessel or object. Merchant undertakes to defend, indemnify and hold harmless Charterers and their agents from and against all claims, damages, losses and expenses arising from or in respect of any vessel or object, in respect of any loss of, or damage to, or any claim whatsoever of Merchant paid or payable to Merchant by the non-carrying vessel or object or the owner of, charterer of or person responsible for the non-carrying vessel or object and not all recovered or recovered by such vessel, object or Person(s) against Charterers and their agents or the non-carrying vessel or object.

21. VARIATION OF THE CONTRACT NO. award or award of the Center shall have power to waive or vary any of the terms herein and such variation is binding and is specifically authorized or nullified in writing by a Director or officer of Center who has the actual authority (under us to waive or vary).

22. CLAIMS IN TORT: The elements and limit of liability provided for in these terms, and conditions shall apply in any action against Carrier for loss or damages to Goods whether the loss or damage is caused by negligence or otherwise.

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 161 North Clark Street, 48th Fl., Chicago, ILL 60601
 Address of Defendant: 510 Walnut Street, Philadelphia, PA 19106
 Place of Accident, Incident or Transaction: at sea

RELATED CASE, IF ANY:

Case Number: 22-md-3028 (PAE) Judge: Engelmayer (SDNY) Date Terminated: N/A

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|---|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☒ **is** / ☐ **is not** related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 12/28/2022

/s/ George R. Zacharkow
 Attorney-at-Law / Pro Se Plaintiff

32816

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)**A. Federal Question Cases:**

- ☒ 1. Indemnity Contract, Marine Contract, and All Other Contracts
☐ 2. FELA
☐ 3. Jones Act-Personal Injury
☐ 4. Antitrust
☐ 5. Patent
☐ 6. Labor-Management Relations
☐ 7. Civil Rights
☐ 8. Habeas Corpus
☐ 9. Securities Act(s) Cases
☐ 10. Social Security Review Cases
☐ 11. All other Federal Question Cases
 (Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
☐ 2. Airplane Personal Injury
☐ 3. Assault, Defamation
☐ 4. Marine Personal Injury
☐ 5. Motor Vehicle Personal Injury
☐ 6. Other Personal Injury (Please specify): _____
☐ 7. Products Liability
☐ 8. Products Liability – Asbestos
☐ 9. All other Diversity Cases
 (Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, George R. Zacharkow, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: 12/28/2022

/s/ George R. Zacharkow
 Attorney-at-Law / Pro Se Plaintiff

32816

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

United States District Court
Eastern District of Pennsylvania (Philadelphia)
CIVIL DOCKET FOR CASE #: 2:22-cv-05096-GAM

HDI GLOBAL INSURANCE COMPANY v. SILVER BIRCH GP, LLC
Assigned to: HONORABLE GERALD A. MCHUGH
Cause: 46:1300 Carriage of Goods by Sea Act (COGSA)

Date Filed: 12/21/2022
Jury Demand: None
Nature of Suit: 120 Contract: Marine
Jurisdiction: Federal Question

Plaintiff

**HDI GLOBAL INSURANCE
COMPANY**

represented by **GEORGE R. ZACHARKOW**
DEASEY, MAHONEY & VALENTINI,
LTD
1601 MARKET STREET
34TH FLOOR
PHILADELPHIA, PA 19103
215-587-9400
Fax: 215-587-9456
Email: gzacharkow@dmvlawfirm.com
ATTORNEY TO BE NOTICED

V.

Defendant

SILVER BIRCH GP, LLC

Date Filed	#	Docket Text
12/21/2022	<u>1</u>	COMPLAINT against HDI Global Insurance Company (Filing fee \$ 402 receipt number APAEDC-16389555.), filed by HDI Global Insurance Company.(ZACHARKOW, GEORGE) (Entered: 12/21/2022)
12/22/2022		Attorneys are required by local rule to complete and file both a Civil Cover Sheet and a Designation Form. Plaintiff's counsel is directed to file Designation Form in this case using the Notice (Other) docket event located in the Notices category. (sbt) (Entered: 12/22/2022)
12/22/2022	<u>2</u>	Summons Issued as to SILVER BIRCH GP, LLC. Forwarded To: counsel on 12/22/22. (mbh) (Entered: 12/22/2022)
12/28/2022	<u>3</u>	NOTICE by HDI GLOBAL INSURANCE COMPANY re <u>1</u> Complaint (Attorney), Attorney Required Forms, <i>Designation Form</i> (ZACHARKOW, GEORGE) (Entered: 12/28/2022)

PACER Service Center			
Transaction Receipt			
12/28/2022 12:26:12			
PACER Login:	grzacharkow3251	Client Code:	1010.28251-EJR
Description:	Docket Report	Search Criteria:	2:22-cv-05096-GAM

Billable Pages:	1	Cost:	0.10
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**BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

IN RE: ONE Apus Container Ship Incident on November 30, 2020

MDL No. 3028

CERTIFICATE OF SERVICE

I hereby certify that on December 28, 2022, a true and correct copy of the forgoing Notice of Potential Tag-Along Action was served upon Defendant Silver Birch GP, LLC, by first class mail, postage prepaid, at the following address: 510 Walnut Street, Philadelphia, Pennsylvania 19106.

DEASEY, MAHONEY & VALENTINI, LTD.

BY: /s/ George R. Zacharkow
George R. Zacharkow (GRZ 7099)
(PA 32816)
1601 Market Street, 34th Floor
Philadelphia, PA 19103
(215) 587-9400 (phone)
(215) 587-9456 (fax)
Email: GZacharkow@dmvlawfirm.com
Attorneys for Plaintiff

Dated: December 28, 2022